



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/028,126.

12/20/2001

Eric Henry Baller

31862.000065

2357

22913 7590 03/28/2007

WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

EXAMINER

MEKY, MOUSTAFA M

ART UNIT

PAPER NUMBER

2157

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

03/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/028,126	Applicant(s) BALLER ET AL.	
	Examiner Moustafa M. Meky	Art Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22,23,27,28,30 and 31 is/are rejected.
- 7) ☒ Claim(s) 24-26, 29 is/are objected to.
- 8) ☒ Claim(s) 1-18, 20-21 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2157

1. The response filed on 1/12/2007 has been received and entered by the examiner in which claims 22-31 have been elected with traverse.
2. Claims 22-31 are presenting for examination.
3. Claim 22 recites the limitation "the queue" in line 11. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 30 recites the limitation "the remote machine" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 31 recites the limitation "the schedule and interacts" in line 2. There is insufficient antecedent basis for basis for this limitation in the claim.
6. Claims 30-31 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of their elements and the elements of their independent claim 22, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01
7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 22-23, 27-28, and 30-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson (US 2006/0282521).

Art Unit: 2157

9. As to claim 22, Anderson shows in Fig 1, a method for communicating between a server 10 and an asset 40 comprising the steps of:

- queuing one or more request messages on the server 10, see [0032], lines 1-4, [0050], lines 2-4;
- Logging the request message(s) on the server 10, see [0032], lines 1-4;
- sending a polling message from the asset 40 to the server 10, see [0050], lines 4-6;
- sending the request message(s) to the asset 40 in response to the polling message, see [0050], lines [0050], lines 7-9;
- sending a response message (file) from the asset 40 to the server 10, see [0052], lines 1-2;
- receiving the responsive message (file) at the server 10 and reconciling the responsive message (file) with the logged request, see [0052], lines 2-6 ; and
- continuing to send request messages to the asset 40 until the queue 14 is empty, see [0083], lines 6-9.

10. As to claim 23, Anderson teaches sending polling messages at a predetermined interval, see [0043], lines 5-8, .

11. As to claim 27, the server 10 sends the queued message(s) to the asset 40 in response to any message from the asset 40 received by the server 10, see [0050], lines [0050], lines 7-9.

12. As to claim 28, the server 10 sends an indication of a queued message to the asset 40 in response to various messages from the asset 40 received by the server 10, see [0050], lines [0050], lines 7-9.

13. As to claims 30-31, the server 10 is a gateway device that provides protocol (SOAP, WML, XML, ..) to further machines (client 20 and phone 25), see [0034].

Art Unit: 2157

Therefore, it can be seen from paragraphs 9-13 that Anderson anticipates claims 22-23, 27-28, and 30-31.

14. Claim 24-26 & 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14.1 The prior art of record doesn't teach:

- detecting a fault at the asset requiring interactivity and sending one or more polling messages to the server in response to the fault (claim 24); and
- the message from the server includes a request for establishing an interactive session and the responsive message from the asset establishes an open connection through which subsequent messages are sent (claim 29).

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Moustafa M. Meky whose telephone number is 571-272-4005. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2157

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MMM
3/25/2007



MOUSTAFA M. MEKY
PRIMARY EXAMINER